IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 3RD JANUARY 2007 / 13TH POUSHA, 1928

Crl.MC.No. 3972 of 2006()

CC.55/2005 of JUDL.MAGISTRATE OF FIRST CLASS, PAYYOLI
CRIME NO.200/2004 OF PAYYOLI POLICE STATION

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PETITIONER: RESPONDENT:

ABDUL GAFOOR, AGED 35 YEARS,
S/O. ALIKOYA, VADAKKE PILACHERI HOUSE,
PUTHURVATTOM, BALUSSERY, KOZHIKODE TALUK.

BY ADV. SRI.MANJERI SUNDERRAJ
SRI.B.PREMNATH (E)

RESPONDENTS:

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1. SAMEERA, AGED 27 YEARS,
D/O. MUHAMMED, THYVALAPPIL HOUSE, MELADY AMSOM,
KANNAMKUKLAM DESOM, KOYILANDY TALUK, KOZHIKODE.

2. STATE OF KERALA,
REP. BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

R2 BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 03/01/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.No. 3972 of 2006

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Dated this the 3rd day of January, 2007

O R D E R

The petitioner is the accused in a prosecution, inter alia, under Section 498A I.P.C. He is the first accused. The co-accused, who were also arrayed as accused along with him, have all faced trial. They have been found not guilty and acquitted as per Annex.1 judgment. The case against the petitioner was split up as he was not available for trial.

2. The first respondent is the defacto complainant/wife of the petitioner. The marriage has subsequently been dissolved. All disputes between the petitioner and the first respondent have been settled amicably by the parties. The learned counsel for the petitioner, the learned counsel for the first respondent/defacto complainant and the learned Public Prosecutor submit that the matter has been settled and the matrimonial dispute is harmoniously resolved. In these circumstances, notwithstanding the fact that the offence under Section 498A I.P.C. is not compoundable, it is prayed by both counsel for the petitioner and the first respondent that the dictum in **B.S. Joshi** v. **State of Haryana** (AIR 2003 SC 1386) may

be invoked and the proceedings pending against the petitioner may be quashed under Section 482 Cr.P.C.

3. Having considered all the relevant inputs, I am satisfied that the joint request made by the petitioner and the first respondent can be accepted. The parties have settled their disputes and I see that even in the prosecution against the co-accused this fact of settlement was asserted by the first respondent on oath. The prosecution has thus lost all its relevance and significance. Matrimonial disputes having been settled, I accept the petition. The proceedings pending against the petitioner under Sections 498A and 420 r/w. 109 I.P.C. as C.C.No. 457 of 2005 before the Court of J.F.C.M., Payyoli is quashed.

4. This Crl.M.C. is accordingly allaowed. The said prosecutiohn against the petitioner is hereby quashed.

(R. BASANT)
Judge

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R.BASANT, J.

Crl.M.C.NO.3972 OF 2006

Dated this the 5th day of December, 2006.

ORDER

The prayer in this petition is that prosecution under Section 498 A may be quashed. Consequent to the compromise effected and the composition made by the 1st respondent/defacto complainant, powers under Section 482 as explained in **B.S.Joshy v. State of Haryana** (A.I.R 2003 SC 1386) may be invoked, it is prayed. That exceptional course can be followed by

the Court, if both contestants would appear before the Court and confirm that the matter has been settled. The respondent has not entered appearance. The learned counsel for the petitioner prays for some time to ensure the appearance of the respondent through counsel and the filing of the joint statement by the rival contestants. Request accepted. Time granted.

Call on 18.12.2006.

R.BASANT
JUDGE

rtr/